IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CASE NO.: **FAO NO.510 OF 1987**

DATE OF DECISION: September 6, 2006

SMT. LAKSHMI DEVI AND OTHERS ...APPELLANTS

VERSUS

STATE OF HARYANA AND ANOTHER ...RESPONDENTS

CORAM: HON'BLE MR. JUSTICE ASHUTOSH MOHUNTA.

PRESENT: MR. DEEPAK SURI, ADVOCATE FOR THE APPELLANTS.
MR. ASHISH KAPOOR, ADDL.A.G., HARYANA.
MR. S.S. AULAKH, ADVOCATE
FOR THE INSURANCE COMPANY.

ASHUTOSH MOHUNTA, J. (ORAL)

The appellants Lakshmi Devi and others have filed the present appeal against the judgement of Motor Accident Claims Tribunal, Ambala (for short 'the Tribunal') dated 30.1.1987, by which compensation of Rs.22,200/- only has been awarded to them on account of death of Anita Rani who died in a motor accident.

Briefly the facts of the case are that on 25.10.1985, Anita Rani was travelling in a Haryana Roadways bus bearing No.HRX-1606. She boarded the bus from Chandigarh at about 4.45 A.M. and was going to Delhi. At about 5.40 A.M. when the bus reached near the Oberoi Petrol Pump in Ambala City and as soon as it crossed a small bridge, a truck being driven by Gurpal Singh came from the opposite side and dashed against the

bus on its right hand side. As a result of the accident, the bus overturned and fell in ditch on the side of the road and Anita Rani, died on spot.

The appellants, who are the parents, a sister and two brothers, filed the claim petition claiming a compensation of Rs.3,29,000/- on account of death of Anita Rani. It was averred that the deceased was 20 years old. It was claimed that she was earning a sum of Rs.1300/-, per month as she was working in a private school at Karnal. It was further averred that the accident took place because of the rash and negligent driving of both the drivers of the vehicles, i.e., of the bus as well as the truck.

Reply was filed on behalf of the State of Haryana, wherein it was averred that the accident took place because of the rash and negligent driving of the driver of the truck, namely, Gurpal Singh.

A separate written statement was filed by the driver of the truck, who stated that the accident took place because of the rash and negligent driving by the bus driver. He, however, admitted the accident.

Before the Tribunal, the question was whether the accident took place because of the rash and negligent driving of the driver of the truck No.PJV-3090, driven by Gurpal Singh or by the rash and negligent driving of the driver of the bus bearing No.HRX-1606 driven by Ranbir Singh. One of the claimants Satish Kumar, who appeared as PW-14, stated that the accident took place because of the rash and negligent driving of the truck driver. However, Girdhari Lal, PW3 and Vinod Kashyap, PW10, deposed that the accident took place because of the rash and negligent driving of the drivers of both the vehicles as the bus as well as the truck were being driven in a rash and negligent manner.

No cogent evidence was led by the drivers of the bus as well as the truck. The Tribunal found that accident took place because of the rash and composite negligence of drivers of both the offending vehicles.

A perusal of the testimonies of the eye witnesses who are travelling in the bus, namely, Satish Kumar, Girdhari Lal, Vinod Kashyap make is abundantly clear that the accident took place because of the rash and negligent driving of drivers of both the truck as well as the bus. Thus, I uphold the findings of the Tribunal.

It has been argued by Mr. Deepak Suri, counsel for the appellants that the compensation awarded on account of the death of Anita Rani is highly inadequate as she was earning a sum of Rs.1300/- per month whereas the Tribunal has taken her income to be only Rs.660/- and a meagre compensation of Rs.22,200/- has been awarded to the claimants. In support of his contention, learned counsel relies on the statement of PW-11 Mahesh Kumar, who is the brother of the deceased, who stated that Anita Rani had been appointed in Government service as Teacher and the appointment letter had been received after her death. It has come in the statement of PW-7, Sumer Chand who has stated that he used to pay tuition fee to Anita Rani for taking tuitions for his two sons. A perusal of the impugned judgement shows that the deceased was a diploma holder in Art & Craft and a certificate to this effect has been placed on record as Ex.P-50.

Keeping in view the fact that deceased Anita Rani was getting a salary of Rs.660/- per month as an Art & Craft Teacher and was also earning by taking tuitions, therefore, I determine the income of deceased Anita Rani to be Rs.1200/- per month. The deceased was a young lady of 20 years, therefore, I deduct 25% of the aforementioned amount for her

personal expenses and thus, dependency of the claimants works out to Rs.750/- per month, i.e., Rs.9000/- per annum. Although the deceased was 20 years old but as the claimants are her aged parents, therefore, I apply a multiplier of 13.

As a result of the above discussion, the claimants are held entitled to a compensation of Rs.1,17,000/-. Apart from the above, the claimants are also held entitled to a sum of Rs.3000/- on account of funeral expenses and another sum of Rs.50,000/- for loss of consortium. Thus, the claimants are held entitled to a total compensation of Rs.1,70,000/-. The claimants shall also be entitled to interest at the rate of 8% per annum payable from the date of filing the claim petition till realization.

The insurance company as well as the State of Haryana are held jointly and severally liable to pay the compensation.

The appeal stands disposed of in the above terms.

September 6, 2006 **(ASHUTOSH MOHUNTA)**
Gulati **JUDGE**